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MV

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/600,860	10/11/00	BORGNA	194112US6PCT

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EXAMINER
HANSEN, J

ART UNIT	PAPER NUMBER
3636	//

DATE MAILED: 07/05/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/600,860

Applicant(s)
BORGNA

Examiner
JAMES O. HANSEN

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3636



-- This MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Apr 30, 2001
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-28 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☒ The proposed drawing correction filed on Apr 30, 2001 is: a) ☒ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) ☐ Other:

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DETAILED ACTION

Drawings

1. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on April 30, 2001 have been approved by the examiner.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “coverpiece” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. The examiner has taken the position that the shelf comprises “cornerpieces” that “cover” corners of the shelf.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 13-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In Claims 1 & 27, the phrase “plurality of coverpieces including at least one cornerpiece” is unclear and confusing as presently employed since the specification only references “cornerpieces” that cover portions of the panel; as such, one cannot ascertain whether the phrase denotes the limitation as meaning the terms are ‘one and the same’ or as a means to further define the limitation, i.e., the coverpiece is the cornerpiece or the coverpiece being further

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defined by a cornerpiece. Appropriate correction is required. In Claims 21-26, the phrase "comprises or is adapted to" is viewed as being indefinite since the resulting language does not clearly set forth the scope of the claims. In Claims 21 & 26, the phrases "at least one mean of assembly" and "at least one mean for attaching" respectively, are unclear as presently worded. In Claim 28, the phrase "the plurality of coverpieces comprises coverpieces which..." is unclear and redundant as presently worded; additionally, the phrase "over at least part of length and height of the coverpieces" is unclear and confusing as presently worded when taken in context with the previously worded claim language [it appears that the term "coverpieces" should be changed to -- support panel--]. Consequently, the remaining claims are rendered indefinite because they are dependent upon a rejected claim.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 13-16 and 21-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 582,780. The examiner has taken the position that the coverpieces are the cornerpieces as described in the specification and drawings. EP'780 (figures 1-4) teaches of a refrigerator shelf (figs. 1-2) comprising: at least one support panel (50) formed of one sheet of glass/plastic, the

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panel having a plurality of corners (a plurality being viewed as the two rear corners depicted in fig. 1); and a plurality of plastic cornerpieces (40 - two securing the rear corners of the panel as partially depicted in fig. 1), each cornerpiece covering a respective corner at the rear of the panel; and each cornerpiece covering, in part, a side of the panel as depicted in figure 2; {claim 21} wherein the cornerpieces comprise a means (21) for connecting to a chassis; {claim 22} wherein the cornerpieces comprise a stiffening fin (45); {claim 23} wherein the cornerpieces are adapted to receive a rim (fig. 4); {claim 24} wherein the cornerpieces are adapted to receive a buffer strip (52); {claim 25} wherein the cornerpieces comprise a grip (raised portion on ref. 43 as depicted in fig. 2); {claim 26} wherein the cornerpieces are adapted to receive a means for attaching an additional element (via 21 for example); **but** EP'780 does not specifically state that the panel is formed of a sheet of glass and a sheet of plastic [basically, a laminate]. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the support panel's material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. As to claims 27-28, EP'780 teaches applicant's basic inventive claimed concept as structurally disclosed above, but does not specifically state a "method" of manufacturing a refrigerator shelf. However, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to construct a shelf as prescribed by applicant's method because the normal assembly of EP'708's structure would inherently encompass the steps as set forth.

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Allowable Subject Matter

7. Claims 17-20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action **and to include all of the limitations of the base claim and any intervening claims.**

Response to Arguments

8. Applicant's arguments filed April 30, 2001 have been fully considered but they are not persuasive. As to applicant's remarks concerning the EP'780 reference, note the following: it is viewed that the above rejection adequately addresses applicant's arguments as presently claimed [structurally and functionally].

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Goldsmith and Hickman describe peripheral molding for refrigerator shelves.

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**


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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication from the examiner should be directed to James O. Hansen whose telephone number is (703) 305-7414. Examiner Hansen can normally be reached Monday to Friday from 9:00 A.M. to 5:00 P.M. Eastern Time Zone.

Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-2168. Fax numbers for Official Papers are as follows: (703) 305-3597 & (703) 305-7687. The unit fax phone number for Unofficial Papers is as follows: (703) 308-3691.


Peter M. Cuomo
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JOH 
June 27, 2001